

HOUSE BILL 1340

M2

11r3081
CF SB 538

By: **Delegates Haddaway–Ricchio and O’Donnell**

Introduced and read first time: March 7, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oysters – Sanctuaries and Poaching**

3 FOR the purpose of prohibiting the Department of Natural Resources from
4 designating more than a certain percent of the available oyster habitat in the
5 waters of the State as oyster sanctuaries, except under certain circumstances;
6 providing that a certain person who receives a citation for a certain offense
7 related to unlawfully taking oysters may have a certain license revoked under
8 certain circumstances; establishing certain grounds for the revocation of a
9 certain license; requiring the Department to hold a certain hearing under
10 certain circumstances in accordance with the Administrative Procedure Act;
11 requiring the Department to revoke a person’s license to catch oysters under
12 certain circumstances; authorizing certain aggrieved persons to obtain judicial
13 review of a certain decision; prohibiting a certain person from engaging or
14 working in a certain fishery under certain circumstances; and generally relating
15 to the management of oyster resources in the State.

16 BY repealing and reenacting, with amendments,
17 Article – Natural Resources
18 Section 4–1006.2
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2010 Supplement)

21 BY adding to
22 Article – Natural Resources
23 Section 4–1210
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2010 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Natural Resources**

2 4–1006.2.

3 **(A) THE DEPARTMENT MAY NOT DESIGNATE MORE THAN 25% OF THE**
4 **AVAILABLE OYSTER HABITAT IN THE WATERS OF THE STATE AS OYSTER**
5 **SANCTUARIES UNLESS THE DEPARTMENT CONDUCTS A PUBLIC HEARING**
6 **DURING WHICH THE DEPARTMENT PRESENTS SCIENTIFIC EVIDENCE OF A**
7 **SIGNIFICANT INCREASE IN THE HARVESTABLE OYSTER POPULATION.**

8 **[(a)] (B)** The Department annually shall publish maps and coordinates of
9 oyster sanctuaries, closed oyster harvest reserve areas, and areas closed to shellfish
10 harvest by the Department of the Environment.

11 **[(b)] (C)** (1) The Department shall provide the publications required
12 under this section to each tidal fish licensee who pays the oyster surcharges required
13 under § 4–701(e) of this title.

14 (2) Before a person may catch oysters under a tidal fish license that
15 has an oyster authorization and for which the oyster surcharges have been paid, the
16 person shall certify to the Department on a form the Department prescribes that the
17 person received the publications required under this section.

18 **4–1210.**

19 **(A) (1) IN ADDITION TO ANY OTHER PENALTY OR FINE PROVIDED IN**
20 **THIS TITLE, A PERSON WHO HOLDS A LICENSE TO CATCH OYSTERS UNDER §**
21 **4–701 OF THIS TITLE AND RECEIVES A CITATION FOR AN OFFENSE LISTED**
22 **UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HAVE THE LICENSE REVOKED**
23 **IN ACCORDANCE WITH THIS SECTION.**

24 **(2) THE FOLLOWING OFFENSES, COMMITTED IN VIOLATION OF**
25 **THIS TITLE OR OF ANY REGULATION ADOPTED UNDER THIS TITLE, ARE**
26 **GROUND FOR REVOCATION OF A LICENSE TO CATCH OYSTERS UNDER THIS**
27 **SECTION:**

28 **(I) TAKING OYSTERS LOCATED MORE THAN 200 FEET**
29 **WITHIN A CLOSED OR PROHIBITED AREA;**

30 **(II) TAKING OYSTERS WITH GEAR THAT IS PROHIBITED IN**
31 **THAT AREA;**

32 **(III) TAKING OYSTERS OUTSIDE OF A TIME RESTRICTION**
33 **FOR THE HARVEST OF OYSTERS BY MORE THAN 1 HOUR;**

1 **(IV) TAKING OYSTERS DURING CLOSED SEASONS; AND**

2 **(V) TAKING OYSTERS FROM A LEASED AREA BY A PERSON**
3 **OTHER THAN THE LEASEHOLDER OR THE LEASEHOLDER'S DESIGNEE.**

4 **(B) (1) WITHIN 60 DAYS AFTER A PERSON WHO HOLDS A LICENSE TO**
5 **CATCH OYSTERS UNDER § 4-701 OF THIS TITLE RECEIVES A CITATION FOR AN**
6 **OFFENSE LISTED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT**
7 **SHALL HOLD A HEARING ON THE MATTER IN ACCORDANCE WITH THE**
8 **ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE**
9 **STATE GOVERNMENT ARTICLE.**

10 **(2) AFTER A HEARING IS CONDUCTED UNDER PARAGRAPH (1) OF**
11 **THIS SUBSECTION, IF THE PRESIDING OFFICER FINDS OR CONCLUDES THAT THE**
12 **PERSON KNOWINGLY HAS COMMITTED AN OFFENSE LISTED UNDER SUBSECTION**
13 **(A)(2) OF THIS SECTION, THE DEPARTMENT SHALL REVOKE THE PERSON'S**
14 **LICENSE TO CATCH OYSTERS.**

15 **(C) A PERSON WHO IS AGGRIEVED BY THE FINAL DECISION OF THE**
16 **DEPARTMENT MAY OBTAIN JUDICIAL REVIEW OF THE DECISION IN**
17 **ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10,**
18 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

19 **(D) A PERSON WHOSE LICENSE HAS BEEN REVOKED IN ACCORDANCE**
20 **WITH THIS SECTION MAY NOT ENGAGE OR WORK IN THE FISHERY FOR WHICH**
21 **THE LICENSE WAS REVOKED WHETHER OR NOT IT REQUIRES THE USE OF**
22 **ANOTHER LICENSE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2011.